

United States
Circuit Court of Appeals 6
For the Ninth Circuit.

CHEW HOY QUONG, as Petitioner for and on Be-
half of His Wife, QUOK SHEE,
Appellant,
vs.

EDWARD WHITE, Commissioner of Immigration
at the Port of San Francisco, California,
Appellee.

Transcript of Record.

Upon Appeal from the Southern Division of the
United States District Court for the
Northern District of California,
First Division.

FILED
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F. D. MONCKTON,
CLERK.

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INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Names and Addresses of Attorneys.

For the Petitioner and Appellant:

DION R. HOLM, Esq., 602 California St., San
Francisco, California.

For the Respondent and Appellee:

JOHN W. PRESTON, Esq., U. S. Attorney.

*In the Southern Division of the United States Dis-
trict Court, in and for the Northern District of
California, First Division.*

No. 16,290.

In the Matter of the Application of CHEW HOY
QUONG, for a Writ of Habeas Corpus for and
on Behalf of his Wife, QUOK SHEE.

Praecipe for Transcript of Record.

To the Clerk of the said Court:

Sir: Please issue certified copies of the following
pleadings:

1. Petition for Writ of Habeas Corpus, with two
pages of Exhibit "A," and amendment to
petition for Writ of Habeas Corpus, without
the exhibits.
2. Order to Show Cause.
3. Return.
4. Traverse.
5. Order Sustaining Return and Denying Petition.
6. Notice of Appeal.
7. Petition for Appeal.
8. Order Allowing Appeal.
9. Assignment of Errors.

10. Stipulation as to Exhibits and Order.
11. Citation.
12. Praeceptum for Appeal and All Minute Orders of the Court, except those of postponement.

DION R. HOLM,
ROY A. BRONSON,
Attorneys for Petitioner. [1*]

[Endorsed]: Filed Nov. 27, 1917. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [2]

*In the Southern Division of the United States Dis-
trict Court, in and for the Northern District of
California, First Division.*

No. 16,290.

In the Matter of the Application of CHEW HOY
QUONG, for a Writ of Habeas Corpus for and
on Behalf of his Wife QUOK SHEE.

Petition for Writ of Habeas Corpus.

The petition of Chew Hoy Quong respectfully
shows:

I.

That your petitioner is a person of Chinese extrac-
tion, with the standing of a merchant within the
meaning of section 2 of the Act of November 3d,
1893 (28 Stat. L. 7), entitled, "an Act to amend an
act entitled 'an Act to prohibit the coming of
Chinese persons into the United States,' approved
May 5th, 1892," and as such is duly authorized to
be and remain in the United States and to be ac-

*Page-number appearing at foot of page of original certified Transcript
of Record.

corded all the rights, privileges, immunities and exemptions which are accorded the citizens of the most favored nation.

II.

That the said Quok Shee, also known as Quok Sun Moy, the detained person and wife of petitioner on whose behalf this petition is made and as such wife is entitled under the law to enter the United States of America.

III.

That said Quok Shee is unlawfully imprisoned, detained, confined and restrained of her liberty by Edward White, Commissioner of Immigration, who is the person who has the care, custody and control of the body of said Quok Shee at the Immigration Station of the [3] United States at Angel Island, Bay of San Francisco, in this Northern District of California and is about to be deported therefrom to China.

IV.

That your petitioner is a resident Chinese merchant lawfully domiciled in the City and County of San Francisco, State of California, and has been such merchant for twenty odd years past; that on the 15th day of May, 1915, your petitioner departed from the United States for China on a temporary visit; that while in China and on or about February 21st, 1916, your petitioner was united in marriage according to the Chinese custom to the said Quok Shee; that thereafter, and in the month of July, 1916, your petitioner departed from China with his said wife for the United States arriving at this

port of San Francisco September 1st, 1916; that thereupon the said Quok Shee made application for admission to the United States as the wife of a merchant; that thereafter and on the 5th day of September, 1916, a hearing was had before J. B. Warner, Inspector, who reported favorably on said application; that thereafter the said Commissioner, Edward White, ordered a re-examination before the Law Department of Immigration at Angel Island; that thereafter and on the 13th day of September, 1916, said application was reheard before one W. H. Wilkinson for the law section of said department of immigration who reported unfavorably upon said application; that thereupon said Edward White made a finding that said Quok Shee had not established the existence of her relationship to her alleged husband, your petitioner, and the said application was thereupon denied; that thereafter the said Quok Shee appealed from said decision and finding to the Secretary of Labor at Washington, D. C., who subsequently ordered said Quok Shee deported.

V.

That the illegality of said imprisonment, detention, confinement and restraint of liberty consists in the following:

That on the 25th day of September, 1916, after notice of appeal had been filed to the Secretary of Labor by the then attorneys [4] of record for Quok Shee, and request was made in writing by said attorneys, that they be granted the privilege of interviewing the applicant for the purpose of introducing further evidence in support of her appeal.

That thereafter on the 26th day of September, 1916, the Commissioner of Immigration refused counsel the right to interview the applicant, stating that there was no authority in either the law or regulations for the granting of such a request. A copy of said request for an interview and a copy of the letter denying the request are affixed hereto marked exhibit "A."

That by the reason of the Commissioner of Immigration refusing to grant counsel the right of an interview, and holding applicant incommunicado, said acts constituted an unfair hearing and that applicant was not given an opportunity to perfect her appeal and submit additional evidence in support thereof, as is granted under the Treaty Laws and Rules governing the Admission of Chinese, as in force and effect and is in direct contravention to Rule 5, Subdivision b and c of said rules and regulations.

That by said acts applicant was denied the right of counsel and she was and is deprived of her liberty without due process of law.

That the said Quok Shee has exhausted all her rights and remedies, and has no further rights and remedies before the Department of Labor and unless a Writ of Habeas Corpus issue out of this court as prayed for, and directed to Edward White, Commissioner of Immigration, in whose custody the body of said Quok Shee is, the said Quok Shee, will be forthwith deported from the United States to China, without due process of law.

VII.

That your petitioner is the husband and next friend

of said Quok Shee and makes this petition for and on her behalf. That he is familiar with all the facts of the case and that said Quok Shee cannot petition this Court in her own behalf by reason of said detention and restraint, and, therefore, your petitioner makes this petition [5] for her.

VIII.

That heretofore on November 24, 1916, a Writ of Habeas Corpus was petitioned for, on grounds *not* included in this petition. That at the time of filing said first petition the fact of holding applicant incommunicado and denying her the right to see her counsel for the purpose of submitting additional evidence in support of her appeal was not contained in that portion of the record available to the attorneys for the petitioner. That the Writ of Habeas Corpus heretofore applied for was denied petitioner and all proceedings terminated thereon.

IX.

That the records of the immigration authorities at Angel Island and the proceedings had before the Secretary of Labor at Washington, D. C., are at present on file with the clerk of the United States Circuit Court of Appeals, and we are therefore unable to have proper copies made of the proceedings so that they may be affixed to this petition, but your petitioner prays that when the afore-mentioned records are available he may file copies of the same as amendment to this petition.

WHEREFORE, the petitioner prays that a Writ of Habeas Corpus be issued by this Honorable Court directed to and commanding said Edward White,

Commissioner of Immigration at the port of San Francisco to have, and produce the body of the said Quok Shee before this Honorable Court, at the Postoffice Building in the city and county of San Francisco at a day and time certain to be fixed by this court, or to show cause if any he has why the writ should not be granted, in order that the alleged cause of imprisonment and detention of said Quok Shee may be examined into so that if it be determined the said detention and imprisonment is unlawful and illegal, that the applicant was not given a fair hearing, that the said Quok Shee may be discharged from the custody, detention and imprisonment. That a copy of this petition be served on the United States Attorney, and a copy of the order prayed for is to be served on the said Commissioner [6] of Immigration.

DION R. HOLM,
ROY A. BRONSON,
Attorneys for Petitioner.

State of California,
City and County of San Francisco,—ss.

Dion R. Holm, being first duly sworn, on behalf of the petitioner, Chew Hoy Quong, in the above-entitled action, deposes and says:

That he has read the foregoing petition and knows the contents thereof, and that the same is true of his own knowledge except as to the matters which are therein stated on information and belief and as to those matters that he believes them to be true.

That said petitioner, Chew Hoy Quong, is absent from the City and County of San Francisco, where

Dion R. Holm and Roy A. Bronson, reside and have their offices; and the facts contained in the petition are within the knowledge of this affiant, who is one of the attorneys of record for petitioner and therefore he makes this petition.

DION R. HOLM.

Subscribed and sworn to before me this 16th day of October, 1917.

[Seal]

JULIA W. CRUM.

Notary Public, in and for the City and County of San Francisco, State of California. [7]

Exhibit "A" to Petition for Writ of Habeas Corpus.

P.4 Immigration rec.

15530/6-29

Sept. 25, 1916.

Hon. Edward White,

Commissioner of Immigration,

Port of San Francisco,

Dear Sir:

In re QUOK SHEE, Merchant's Wife.

15530—16-29, ex. S. S. Nippon Maru, Sept. 1st, 1916.

This applicant has been detained at this port since the 1st day of September, 1916. She has been held incommunicado by you and has been permitted to have no communication with her husband, nor he with her since that time. Her case has been denied and such proceedings as have been had with respect thereto are now a matter of record. We have received your letter denying our application to have a review of the Law Section or the report of the examining inspector open to our inspection.

We now have upon file in this matter and pending your determination a request for a reopening and reconsideration of this case for the reasons specified in said application. In the event of a denial of this application we desire to have this request of record for an interview of this applicant with her husband as a basis for the introduction of further evidence in support of her appeal.

Yours very respectfully,

McGOWAN & WORLEY.

By GEO. A. McGOWAN,
Attys. for Applicant. [8]

P. 50 Immigration Rec.
15530/6-29.

Sept. 26, 1916.

Messrs. McGowan and Worley,
Attys. at Law,
Bank of Italy Bldg.
San Francisco.

Sirs: Replying to your communication of the 23d and 25th inst., in re Quok Shee alleged wife of a merchant ex. S. S. "Nippon Maru," Sept. 1, 1916, you are advised that your request for reopening in that case contained in the letter first above mentioned must be denied for the reason that there is no apparent ground for the assumption that any contradictory statements appearing in the record were due to a misunderstanding of the questions propounded, and that the affidavit of the alleged husband is not new evidence within the meaning of the regulations.

The request contained in the 2d above mentioned letter that you as counsel and the alleged husband

be permitted to interview the applicant as a basis for the introduction of further evidence in support of her appeal must also be denied there being no authority in either the law or regulations for the granting of such a request.

Respectfully,

_____,
Acting Commissioner.

WHW/ASH.

Due service and receipt of a copy of the within Petition for a Writ of Habeas Corpus is hereby admitted this 18th day of October, 1917.

_____,
Attorney for _____.

[Endorsed]: Filed Oct. 18, 1917. W. B. Maling, Clerk. By C. M. Taylor, Deputy Clerk. [9]

At a stated term of the District Court of the United States, for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Saturday, the 10th day of November, in the year of our Lord one thousand nine hundred and seventeen. Present: The Honorable, WM. H. HUNT, Judge.

No. 16,290.

In the Matter of QUOK SHEE on Habeas Corpus.
**Minutes of Court—November 10, 1917—Order
Allowing Petitioner to File Amended Petition
for Writ of Habeas Corpus.**

This matter came on regularly this day for hear-

ing of the order to show cause as to the issuance of a Writ of Habeas Corpus herein. On motion of C. A. Ornbaun, Esq., Assistant United States Attorney for the Northern District of California, on behalf of respondent, the Court ordered that said matter be continued to November 17th, 1917.

On motion of attorney for petitioner, Mr. Ornbaun consenting thereto, the Court ordered that petitioner be, and he is hereby permitted to file an amendment to the Petition for Writ of Habeas Corpus herein.
[10]

In the Southern Division of the United States District Court, in and for the Northern District of California, First Division.

No. 16,290.

In the Matter of the Application of CHEW HOY QUONG, for a Writ of Habeas Corpus, for and on Behalf of His Wife, QUOK SHEE.

Amendment to Petition for Writ of Habeas Corpus.

Comes now your petitioner, Chew Hoy Quong, with leave of the Court first had, and files this document as an amendment to his petition for a Writ of Habeas Corpus heretofore filed. That this amendment should be considered as following line 27, page 3, of the Petition on file.

That your petitioner respectfully alleges that in the records of the United States Immigration Authorities of Angel Island, California, now in the hands of the United States District Attorney for the Northern District of California, in the case en-

titled Lee Tong Shee, numbered 15530/6-30 "Nippon Maru," September 1, 1916, also numbered 54176-66, and in which a Writ of Habeas Corpus was granted by this court in action No. 16,204, the following appears:

"In connection with this case San Francisco forwards confidential matter relative to a concerted move to import Chinese Prostitutes into the United States. The report would indicate that this traffic is still in its infancy, as in each of the cases involved (54176-56-61-66) the wives of three residents of one small village in China applied for Admission at practically the same time. The cases are very similar in all detail. For the Bureau's memorandum of the confidential matter, see 54176-61." This appears on page 50 of Exhibit "A" of the record above referred to.

At page 48 of the same record appears the following:

"Mr. Post this is one of the three cases in which the Department received apparently authentic, confidential information, going to show that the women involved were being brought to this Country for immoral purposes. A. W. P."

[11]

That this case now pending before this Honorable Court was numbered according to the Immigration Authorities, 15530/6-29 and is also known as number 54176-61, which is one of the numbers included in the memoranda above quoted.

That your petitioner alleges upon information and

belief that the immigration authorities decided the case of his wife for admission to the United States adversely for the reason of the above memoranda and not because of any discrepancies in the testimony adduced at the hearings before the immigration authorities.

That at the time your petitioner first applied for a Writ of Habeas Corpus for and on behalf of his wife the memoranda quoted did not appear in that portion of the record which the immigration authorities permitted his wife's attorneys to investigate.

That by receiving confidential matter as stated in the memoranda and in transmitting the same so that it became a part of the record and keeping the information from the wife's attorneys and from the wife and your petitioner the immigration authorities acted in contravention to Rule 5, Subdivision b and c of the Treaty, Laws and Rules Governing the Admission of Chinese to the United States.

That when Quok Shee appealed to the Secretary of Labor she was denied the privilege of rebutting this testimony and consequently deprived a fair hearing before said Secretary rendering the appeal abortive.

That the failure to permit the matters referred to in the memoranda to be of record constituted an unfair hearing and deprived Quok Shee the right of refuting the said matters when an appeal was filed to the Secretary of Labor and that by said acts ap-

plicant was deprived of her liberty without due process of law.

CHEW HOY QUONG,
Petitioner.

DION R. HOLM,
ROY A. BRONSON,
Attorneys for petitioner. [12]

State of California,
City and County of San Francisco,—ss.

Dion R. Holm, being first duly sworn, on behalf of the petitioner, Chew Hoy Quong, in the above-entitled action, deposes and says:

That he has read the foregoing petition and knows the contents thereof, and that the same is true of his own knowledge except as to the matters which are therein stated on information and belief and as to those matters that he believes them to be true.

That said petitioner, Chew Hoy Quong, is absent from the City and County of San Francisco, where Dion R. Holm and Roy A. Bronson, reside and have their offices; and the facts contained in the petition are within the knowledge of this affiant, who is one of the attorneys of record for petitioner and therefore he makes this petition.

DION R. HOLM.

Subscribed and sworn to before me this 5th day of November, 1917.

JULIA W. CRUM,
Notary Public, in and for the City and County of
San Francisco, State of California.

Receipt of a copy of the within Amended Petition is hereby admitted this 9th day of Nov., 1917.

JOHN W. PRESTON,

U. S. Attorney.

CHAS. G. HALLIDAY,

Asst. U. S. Attorney,

Attorneys for Respdt.

[Endorsed]: Filed Nov. 10, 1917. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [13]

In the District Court of the United States, in and for the Northern District of California, Southern Division, First Division.

No. 16,290.

In the Matter of the Application of CHEW HOY QUONG, for a Writ of Habeas Corpus, for and on Behalf of His Wife, QUOK SHEE.

Order to Show Cause.

Good cause appearing therefore and upon reading the verified petition on file herein,—

IT IS HEREBY ORDERED that Edward White, Commissioner of Immigration for the port and district of San Francisco, appear before this Court on the 22d day of October, 1917, at the hour of 10 o'clock of said day, to show cause, if any he has, why a Writ of Habeas Corpus should not be issued herein as prayed for and that a copy of this order be served upon the said Commissioner and a copy of said petition upon the United States Attorney.

AND IT IS FURTHER ORDERED that the said Edward White, Commissioner of Immigration aforesaid, or whosoever acting under the orders of said Commissioner and Secretary of Labor, shall have the custody of Quok Shee, are hereby ordered and directed to retain said Quok Shee within the custody of the said Commissioner of Immigration and within the jurisdiction of this court until further order herein.

Dated Oct. 18, 1917.

WM. C. VAN FLEET,
Judge of the United States District Court.

[Endorsed]: Filed Oct. 18, 1917. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [14]

In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 16,290.

In the Matter of the Application of CHEW HOY QUONG, for a Writ of Habeas Corpus, for and on Behalf of His Wife, QUOK SHEE.

Return (to Order to Show Cause).

Now comes Edward White, Commissioner of Immigration at the Port of San Francisco, by Charles D. Mayer, Immigrant Inspector and in return to the order to show cause issued by the said Court on the petition and amended petition of Chew Hoy Quong for a writ of habeas corpus, and to said petition and

amended petition, admits, denies and alleges as follows:

ADMITS all of paragraph I, on page 1 of said petition.

DENIES that the said Quok Shee, also known as Quok Sun Moy, the detained person, is the wife of petitioner.

DENIES that the said Quok Shee is entitled under the law to enter the United States of America.

DENIES that the said Quok Shee is unlawfully imprisoned, or detained, confined and restrained, or unlawfully imprisoned, or detained, or confined, or restrained of her liberty by Edward White, Commissioner of Immigration, or by any one else, or at all.

ADMITS that petitioner is a resident Chinese merchant, lawfully domiciled in the City and County of San Francisco, State of California, but with reference to the allegation in paragraph IV, page 2 of said petition, namely, that your petitioner has been such merchant for twenty odd years past, respondent has no information or belief sufficient to enable him to answer the same, and basing his answer upon said lack of information, DENIES that said petitioner has been a merchant for twenty [15] odd years past.

ADMITS that on the 15th day of May, 1915, petitioner departed from the United States for China on a temporary visit; DENIES that while in China, and on or about February 21st, 1916, or at any other time, or at all, petitioner was united in marriage according to the Chinese custom, or in any other manner, or at all, to the said Quok Shee; DENIES that

during the month of July, 1916, petitioner departed from China for the United States with his said wife, arriving at the Port of San Francisco September 1st, 1916; ADMITS that upon arrival at the Port of San Francisco the said Quok Shee made application for admission to the United States as the wife of a merchant; ADMITS that thereafter, and on the 5th day of September, 1916, a hearing was had before J. B. Warner, Inspector, who reported favorably on the application; ADMITS that thereafter the said Commissioner, Edward White, ordered a re-examination before the Law Department of Immigration at Angel Island, and that thereafter, and on the 13th day of September, 1916, said application was reheard before one W. H. Wilkinson for the law section of said department of immigration who reported unfavorably upon said application; ADMITS that thereupon said Edward White made a finding that said Quok Shee had not established the existence of her relationship to her alleged husband, your petitioner, and the said application was thereupon denied; ADMITS that thereafter said Quok Shee appealed from said decision and finding to the Secretary of Labor at Washington, D. C., who subsequently ordered said Quok Shee deported.

DENIES that on the 25th day of September, 1916, after notice of appeal had been filed to the Secretary of Labor, by the then attorneys of record for Quok Shee, or at any other time, or at all, a request was made in writing, or otherwise, or at all, by said attorneys that they be granted the privilege of interviewing the applicant for the purpose of introducing fur-

ther evidence in support of her appeal. [16]

In this connection respondent alleges that on the 25th day of September, 1916, a request was made by the attorneys representing petitioner, namely, McGowan & Worley, by George McGowan, for an interview with the applicant by her alleged husband, the petitioner herein, which said request was denied; that the attorneys for the said petitioner never requested an interview with the said petitioner.

DENIES that by reason of the Commissioner of Immigration refusing to grant counsel the right of an interview and holding applicant incommunicado, said acts constituted an unfair hearing; DENIES that applicant was not given an opportunity to perfect her appeal and submit additional evidence in support thereof, as is granted under the Treaty Laws and Rules governing the Admission of Chinese, as in force and effect, or force, or effect; and further DENIES that the said refusal or any act on the part of said Commissioner of Immigration was, or is, in contravention to Rule 5, Subdivision b and c of said rules and regulations.

DENIES that applicant was denied the right of counsel or deprived of her liberty without due process of law, or otherwise, or at all.

ADMITS that the said Quok Shee has exhausted all her rights and remedies and has no further rights and remedies before the Department of Labor and unless a Writ of Habeas Corpus issue out of this court as prayed for, and directed to Edward White, Commissioner of Immigration, in whose custody the body of said Quok Shee is, the said Quok Shee will

be forthwith deported, but DENIES that such deportation would be without due process of law.

DENIES that petitioner is the husband of said Quok Shee.

ADMITS that heretofore, on November 24, 1916, a Writ of Habeas Corpus was petitioned for on grounds not included in this petition, and in this connection respondent alleges that at the time of filing said petition, and prior thereto, the original record of the Commissioner of Immigration, which contained all of the evidence submitted either for or against the said applicant upon [17] the hearing before the Commissioner of Immigration, was at the disposal of, and could be seen by said counsel at their request; that the attorneys, McGowan & Worley, who represented said applicant prior to the time that the said Dion R. Holm and Roy A. Bronson were substituted, had access to and did see all of the evidence and other matters pertaining to the investigation had by the said Immigration officials concerning the right of applicant to land in the United States as the wife of the said petitioner; DENIES that the Immigration authorities decided the case of his wife for admission to the United States adversely by reason of the memorandums appearing on pages 1 and 2 of said amended petition and not because of any discrepancies in the testimony adduced at the hearing before the Immigration authorities; DENIES that when Quok Shee appealed to the Secretary of Labor she was denied the privilege of rebutting the testimony referred to on pages 1 and 2 of said amended petition; DENIES that consequently,

or by reason thereof, or otherwise, or at all, she was deprived of a fair hearing before the Secretary of Labor, or elsewhere, and in this connection respondent alleges that the memorandums referred to on pages 1 and 2 of said amended petition were not before the Secretary of Labor at the time that the appeal of the said applicant was determined and that the same were not in any wise considered by the said Secretary of Labor and had no influence over him in determining said appeal.

As a further, separate and distinct answer and defense to the petition and amended petition on file herein, respondent alleges that upon the application of said detained to enter the United States through the Port of San Francisco certain hearings have been conducted in behalf of said applicant, and testimony and other evidence taken concerning her right to enter and remain in the United States as the wife of said petitioner; that said hearings were conducted and the testimony and other evidence taken by the immigration officials acting for and on behalf of the Government of the United States, and that all of the said evidence and other [18] testimony taken or adduced at said hearing were recorded by the said immigration officials in a record known as the original record of the Bureau of Immigration in the case of Quok Shee; that said testimony and other evidence, and all of the exhibits that were considered with the said record, are by reference incorporated into and made a part of this answer and return, and the same are filed herewith.

As a further answer and defense to said petition

and amended petition on file herein, respondent alleges that during the month of December, 1916, and subsequent to the order of deportation of said Quok Shee by the said Secretary of Labor, the said Quok Shee, through her next friend, the petitioner herein, filed a petition for a Writ of Habeas Corpus in this court, setting forth the same facts and circumstances, with the exception of the memorandums referred to in the said amended petition and the said reference to a refusal on the part of the immigration officers to permit the said applicant to consult her counsel in matters pertaining to her appeal, that now appears in this petition; that at the time of filing the said first petition for a Writ of Habeas Corpus, all of the facts and circumstances were at the disposal of the said applicant or her counsel, or the petitioner, that now appear in the record concerning the case of the said applicant, or referred to by counsel in this petition for a Writ of Habeas Corpus on a demurrer filed by the respondent to said petition; that thereafter an appeal was taken by the said petitioner to the United States Circuit Court of Appeals for the Ninth Circuit and the matter fully presented to said Court and the appeal was denied; that thereafter, and on or about August 28, 1917, the said petitioner petitioned the said United States Circuit Court of Appeals for a rehearing of said case, setting forth in said petition for rehearing the same matters that are now set forth in the said petition before this Court; that said United States Circuit Court of Appeals [19] denied the said rehearing, and in this connection respondent alleges that all of the matters re-

ferred to in said petition, which is now before this Court, have been fully determined.

WHEREFORE, respondent prays that the said petition and said amended petition for a Writ of Habeas Corpus be denied, that the order to show cause be discharged and that said alien be remanded to the custody of the respondent for deportation, as provided for in said warrants of deportation heretofore issued by the Secretary of Labor of the United States and for such other further relief as to this Court seems just and equitable.

JOHN W. PRESTON,

United States Attorney,

CASPER A. ORNBAUN,

Assistant United States Attorney,

Attorneys for Respondent.

United States of America,
Northern District of California,
City and County of San Francisco,—ss.

Charles D. Mayer, being first duly sworn, deposes and says: That he is a Chinese and Immigrant Inspector connected with the Immigration Service for the Port of San Francisco, and has been especially directed to appear for and represent the respondent, Edward White, Commissioner of Immigration, in the within entitled matter; that he is familiar with all the facts set forth in the within Return to Petition and to the Amended Petition for a Writ of Habeas Corpus and knows the contents thereof; that it is impossible for the said Edward White to appear in person or give his attention to said matter; that of affiant's own knowledge the mat-

ters set forth in the Return to the Petition and Amended Petition for Writ of Habeas Corpus are true, excepting those matters which are stated on information and belief, and that as to those matters, he believes it to be true.

CHARLES D. MAYER.

Subscribed and sworn to before me this 15th day of November, 1917.

C. M. TAYLOR,
Deputy Clerk U. S. District Court, Northern District of California. [20]

Due service and receipt of a copy of the Return is hereby admitted this 16th day of November, 1917.

DION R. HOLM,
Attorney for Applicant.

[Endorsed]: Filed Nov. 16, 1917. W. B. Maling, Clerk. By C. M. Taylor, Deputy Clerk. [21]

In the Southern Division of the United States District Court, in and for the Northern District of California, First Division.

No. 16,290.

In the Matter of the Application of CHEW HOY QUONG, for a Writ of Habeas Corpus for and on Behalf of His Wife, QUOK SHEE.

Traverse.

Comes now Chew Hoy Quong, petitioner above-named, and files this document as a Traverse to the Return of Edward White, made and filed to the Petition and Amended Petition, and admits, denies and alleges as follows:

I.

Denies generally and specifically, each and every and all of the allegations contained in the Return of Edward White, Commissioner of Immigration, wherein he denies allegations contained in the Petition for Writ of Habeas Corpus.

II.

That on the 17th day of November, 1917, it was stipulated and agreed by and between Casper Ornbau, Esq., Assistant District Attorney for the United States, representing Edward White, Commissioner of Immigration, and Dion R. Holm, the attorney for petitioner, that the latter would have the privilege of filing a Traverse to the Return of the said Commissioner of Immigration if Dion R. Holm considered it necessary. That the stipulation was entered into because of the fact the Return to the Order to Show Cause was not served upon the attorney for the petitioner until the afternoon of the 16th day of November, 1917. [22]

III.

Denies that on November 24, 1916, or at any time, or at all, that the original records of the Commissioner of Immigration, which contain all of the evidence submitted for or against Quok Shee, upon the hearing before the Commissioner of Immigration at Angel Island, and the Secretary of Labor at Washington, or the Commissioner of Immigration at Angel Island, or the Secretary of Labor at Washington, were open for inspection. That the evidence which was considered at Angel Island and not of record consisted of certain confidential information received

at said station, concerning the applicant and which was forwarded to the Secretary of Labor at Washington. That the petitioner, applicant and her attorneys were not permitted to see this information.

IV.

Denies that all the facts, circumstances and evidence concerning the case of Quok Shee were available to the applicant, or petitioner, or his attorney.

V.

Denies that the Circuit Court of Appeals for the Ninth Circuit determined in this case, when heretofore appealed to that tribunal, and point of holding applicant incommunicado and refusing her attorneys the privilege of an interview, after notice of appeal had been filed to the Secretary of Labor.

WHEREFORE petitioner prays that a Writ of Habeas Corpus be issued by this Honorable Court, directed to and commanding said Edward White, Commissioner of Immigration, to release Quok Shee and admit her to the United States.

DION R. HOLM,
ROY A. BRONSON,
Attorneys for Petitioner.

CHEW HOY QUONG,
Petitioner. [23]

State of California,
City and County of San Francisco,—ss.

Dion R. Holm, being first duly sworn, on behalf of the petitioner, Chew Hoy Quong, in the above-entitled action, deposes and says:

That he has read the foregoing Traverse and knows the contents thereof, and that the same is true

of his own knowledge except as to the matters which are therein stated on information and belief and as to those matters that he believes them to be true.

That said petitioner, Chew Hoy Quong, is absent from the City and County of San Francisco, where Dion R. Holm and Roy A. Bronson, reside and have their offices; and the facts contained in the Traverse are within the knowledge of this affiant, who is one of the attorneys of record for petitioner and therefore he makes this affidavit.

DION R. HOLM.

Subscribed and sworn to before me this 19th day of November, 1917.

JULIA W. CRUM,

Notary Public, in and for the City and County of San Francisco, State of California.

Due service and receipt of a copy of the within Traverse is hereby admitted this 19th day of November, 1917.

JOHN W. PRESTON,

U. S. Attorney, Attorney for Appellee.

[Endorsed]: Filed Nov. 19, 1917. W. B. Maling, Clerk. By C. M. Taylor, Deputy Clerk. [24]

At a stated term of the District Court of the United States, for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, State of California, on Saturday, the 17th day of November, in the year of our Lord one thousand nine hundred and seventeen. Present: WM. C. VAN FLEET, Judge.

No. 16,290.

In the Matter of QUOK SHEE, on Habeas Corpus.

Minutes of Court—November 17, 1917 — Order Denying Petition for Writ of Habeas Corpus.

This matter came on regularly for hearing of return to the petition for a Writ of Habeas Corpus herein. After hearing attorney for petitioner and detained, the Court ordered that petitioner have leave to hereafter file a Traverse to said Return. The matter was then argued by attorneys for respective parties, and submitted and after due consideration had thereon, further ordered that the petition for a Writ of Habeas Corpus herein be and the same is hereby denied, to which order an exception was duly entered. [25]

In the Southern Division of the United States District Court, in and for the Northern District of California, First Division.

No. 16,290.

In the Matter of the Application of CHEW HOY QUONG, for a Writ of Habeas Corpus, for and on Behalf of His Wife, QUOK SHEE.

Notice of Appeal

To the Honorable JOHN W. PRESTON, United States Attorney, and Honorable CASPER A. ORNBAUN, Assistant United States Attorney, Attorneys for Respondent, and to the Clerk of the Above-entitled Court:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the petitioner in the above-entitled action, Chow Hoy Quong, through his attorneys, Dion R. Holm and Roy A. Bronson, feeling himself aggrieved by the judgment of the above-entitled court rendered on November 17th, 1917, denying the Petition for a Writ of Habeas Corpus and sustaining the Return to the Writ of Habeas Corpus, hereby appeals from said judgment and decision to the Circuit Court of Appeals for the Ninth Circuit.

DION R. HOLM,
ROY A. BRONSON,
Attorneys for Petitioner.

Dated, November 19, 1917. [26]

Due service and receipt of a copy of the within Notice of Appeal is hereby admitted this 19th day of November, 1917.

JOHN W. PRESTON,
U. S. Attorney, Attorney for Appellee.

[Endorsed]: Filed Nov. 19, 1917. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. W. C.
[27]

*In the Southern Division of the United States Dis-
trict Court, in and for the Northern District of
California, First Division.*

No. 16,290.

In the Matter of the Application of CHEW HOY
QUONG, for a Writ of Habeas Corpus, for and
on Behalf of His Wife, QUOK SHEE.

Petition for Appeal.

To the Honorable W. C. VAN FLEET, Judge of the
District Court of the United States for the
Northern District of California:

Chew Hoy Quong, the petitioner in the above-entitled action, appellant herein, feeling aggrieved by the order and judgment made and entered in the above-entitled cause on the 17th day of November, 1917, whereby it was ordered and adjudged that the Application and Petition for the Writ of Habeas Corpus be denied, and the Return thereto be sustained, does hereby appeal from said order and judgment to the United States Circuit Court of Appeals for the Ninth Circuit, for the reasons set forth in the Assignment of Errors filed herewith, and prays that

his appeal be allowed and that citation be issued as provided by law and that a transcript of the record, proceedings and documents and all of the papers upon which said order and judgment were based duly authenticated, be sent to the United States Circuit Court of Appeals for the Ninth Circuit under the rules of said court in accordance with the law in such case made and provided, and that all further proceedings in this matter be stayed until the final determination of said appeal.

Dated, November 19, 1917.

DION R. HOLM,
ROY A. BRONSON,

Attorneys for Petitioner. [28]

Due service and receipt of a copy of the within Petition for Appeal is hereby admitted this 19th day of November, 1917.

JOHN W. PRESTON,
U. S. Attorney, Attorney for Appellee.

[Endorsed]: Filed Nov. 19, 1917, W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [29]

In the Southern Division of the United States District Court, in and for the Northern District of California, First Division.

No. 16,290.

In the Matter of the Application of CHEW HOY QUONG for a Writ of Habeas Corpus for and on Behalf of His Wife, QUOK SHEE.

Assignment of Errors.

Now comes the petitioner in the above-entitled matter by his attorneys, Dion R. Holm and Roy A.

Bronson, and files the following Assignment of Errors upon which he will rely in the prosecution of his appeal in the above-entitled cause in the United States Circuit Court of Appeals for the Ninth Circuit from the order and judgment made by this Honorable Court on the 17th day of November, A. D. 1917:

I.

That the Court erred in denying the petition for a Writ of Habeas Corpus.

II.

That the Court erred in sustaining the Return to the petition for a Writ of Habeas Corpus.

III.

That the Court erred in not granting the petition for a Writ of Habeas Corpus, and in not discharging Quok Shee.

IV.)

That the Court erred in finding that there was not an abuse of discretion, an unfair hearing and a failure to observe due process of law on the part of the immigration authorities when they denied the attorneys for the applicant the right of [30] interviewing her for the purpose of obtaining further evidence in support of her appeal to the Secretary of Labor.

V.

That the Court erred in holding that it was not an abuse of discretion and an unfair hearing to consider confidential matter concerning the applicant, wherein she was alleged to be brought to this country for immoral purposes, and that by reason of the withholding of said confidential matter she was not deprived of her liberty without due process of law.

WHEREFORE, because of the many manifest errors committed by said Court, Chew Hoy Quong, through his attorneys, prays that the said judgment sustaining the Return to the petition for a Writ of Habeas Corpus and denying the petition for a Writ of Habeas Corpus, be reversed, and for such other and further relief as the Court may think meet and proper.

Dated, November 19, 1917.

DION R. HOLM,
ROY A. BRONSON,
Attorneys for Petitioner.

Due service and receipt of a copy of the within Assignment of Errors is hereby admitted this 19th day of November, 1917.

JOHN W. PRESTON,
U. S. Attorney, Attorney for Appellee.

W. C.

[Endorsed]: Filed Nov. 19, 1917. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [31]

*In the Southern Division of the United States Dis-
trict Court, in and for the Northern District of
California, First Division.*

No. 16,290.

In the Matter of the Application of CHEW HOY
QUONG, for a Writ of Habeas Corpus, for and
on Behalf of His Wife, QUOK SHEE.

Order Allowing Appeal.

On motion of Dion R. Holm and Roy A. Bronson,

attorneys for Chew Hoy Quong, petitioner in the above-entitled cause,—

IT IS HEREBY ORDERED that on appeal to the United States Circuit Court of Appeals for the Ninth Circuit from an order and judgment heretofore made and entered herein, sustaining the Return to the petition for a Writ of Habeas Corpus, and denying the application for a Writ of Habeas Corpus, be and the same is hereby allowed and that a certified transcript of the record, testimony, exhibits, stipulations and all proceedings be forthwith transmitted to the United States Circuit Court of Appeals for the Ninth Circuit in the manner and time prescribed by law and that meanwhile all further proceedings in this court and by the immigration authorities be suspended, stayed and superseded until the determination of said appeal.

Dated, November 19, 1917.

WM. C. VAN FLEET,

Judge of the District Court of the United States in
and for the Northern District of California.

[32]

Due service and receipt of a copy of the within order allowing appeal is hereby admitted this 19th day of November, 1917.

JOHN W. PRESTON,

U. S. Attorney,
Attorney for Appellee.

[Endorsed]: Filed Nov. 19, 1917. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [33]

In the Southern Division of the United States District Court, in and for the Northern District of California, First Division.

No. 16,290.

In the Matter of the Application of CHEW HOY QUONG, for a Writ of Habeas Corpus for - and on Behalf of His Wife, QUOK SHEE.

Stipulation (as to Exhibits) and (Order That the Originals be Transmitted to the U. S. C. C. A.).

IT IS HEREBY STIPULATED AND AGREED by and between the respective parties in the above-entitled cause that the original record of the Bureau of Immigration, which was filed in the above-entitled court as respondent's exhibit, may be transferred in its original form, and without being transcribed, to the United States Circuit Court of Appeals for the Ninth Circuit, and the same is and may there be considered part of the record in determining this cause on appeal to the said United States Circuit Court of Appeals for the Ninth Circuit without objection on the part of either of said respective parties.

AND IT IS FURTHER STIPULATED that the testimony attached to the petitioner's amendments to his petition for a Writ of Habeas Corpus need not be transcribed, as they are contained in the original record of the Bureau of Immigration.

Before signing the above stipulation the United States Attorney and Assistant United States Attorney requested that it be here inserted, that they in

no way countenanced the appeal in the above-entitled action and that they considered such an appeal frivolous. [34]

Dated, November 27, 1917.

JOHN W. PRESTON,
United States Attorney.
DION R. HOLM,
ROY A. BRONSON,

Attorneys for Chew Hoy Quong.

IT IS HEREBY ORDERED that the above stipulation be observed.

WM. W. MORROW,
Judge of the United States Circuit Court.

[Endorsed]: Filed Nov. 27, 1917. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [35]

**Certificate of Clerk U. S. District Court to Transcript
on Appeal.**

I, Walter B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 35 pages, numbered from 1 to 35, inclusive, contain a full, true and correct transcript of certain records and proceedings, in the matter of Quok Shee, on Habeas Corpus, No. 16,290, as the same now remain on file and of record in the office of the clerk of said District Court; said transcript having been prepared pursuant to and in accordance with "Praecipe for Transcript of Record" (copy of which is embodied in this transcript) and the instructions of the attorney for petitioner and appellant.

I further certify that the cost for preparing and certifying the foregoing transcript on appeal is the sum of Thirteen Dollars and Ten Cents (\$13.10), and that the same has been paid to me by the attorney for the appellant herein.

Annexed hereto is the Original Citation on Appeal, issued herein (page 37).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 12th day of December, A. D. 1917.

[Seal]

WALTER B. MALING,
Clerk.

By C. M. Taylor,
Deputy Clerk.

TMC. [36]

(Citation on Appeal—Original).

UNITED STATES OF AMERICA,—ss.

The President of the United States, to Edward White, Commissioner of Immigration at Angel Island, California, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern District of California, First Division, wherein Chew Hoy Quong as petitioner for and on behalf of his wife Quok Shee, are appellants, and you are ap-

pellee, to show cause, if any there be, why the decree rendered against the said appellants, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable W. C. VAN FLEET, United States District Judge for the Northern District of California, this 19th day of November, A. D. 1917.

WM. C. VAN FLEET,
United States Dist. Judge. [37]

[Endorsed]: No. 16,290. United States District Court for the Northern District of California. Chew Hoy Quong, for Quok Shee, Appellant, vs. Edward White, as Commissioner of Immigration. Citation on Appeal. Filed Nov. 19, 1917. W. B. Maling, Clerk. By C. M. Taylor, Deputy Clerk.

Received copy of within citation, this 19th November, 1917.

JNO. W. PRESTON,
U. S. Attorney,
Attorney for Appellee.

[Endorsed]: No. 3088. United States Circuit Court of Appeals for the Ninth Circuit. Chew Hoy Quong, as Petitioner for and on Behalf of His Wife, Quok Shee, Appellant, vs. Edward White, Commissioner of Immigration at the Port of San Francisco, California, Appellee. Transcript of the Record. Upon Appeal from the Southern Division

of the United States District Court for the Northern District of California, First Division.

Filed December 12, 1917.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

